


03-R-0903

A RESOLUTION BY COUNCIL MEMBER:
H. LAMAR WILLIS


**A RESOLUTION AUTHORIZING THE PAYMENT OF VANGUARD'S
PREFERENCE DEMAND PURSUANT TO § 547(b) OF THE UNITED STATES
BANKRUPTCY CODE; AUTHORIZING THE CHIEF FINANCIAL OFFICER
TO DISBURSE AN AMOUNT NOT TO EXCEED \$16,000.00 FAC 2H01 529010
T31001 AND FOR OTHER PURPOSES.**

WHEREAS, Vanguard Airlines, filed for bankruptcy on July 30, 2002 ("Petition Date").

WHEREAS, the City of Atlanta (City) received payments from Vanguard totaling \$24,837.33 during the ninety (90) day period preceding the Petition Date.

WHEREAS, the payments made by Vanguard to the City in the amount of \$24, 837.33 constitute a preference payment as defined by § 547(b) of the United States Bankruptcy Code.

WHEREAS, Pursuant to § 547(b) of the United States Bankruptcy Code, a preference is any payment (i) made by Vanguard to a creditor during the ninety (90) day period prior to the Petition Date (in the case the period between May 1, 2001 through July 29, 2002), when Vanguard was insolvent, (ii) for a preexisting debt, and (iii) that allows the creditor (the City) to recover more than if it had been paid in the bankruptcy case.

WHEREAS, the City's Law Department negotiated the amount of the preference demand from \$24,837.33 to \$16, 000.00.

WHEREAS, pursuant to § 547(b) of the United States Bankruptcy Code the City has to pay to Vanguard Airlines the amount of \$16,000.00.

**NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE COUNCIL
OF THE CITY OF ATLANTA GEORGIA, AS FOLLOWS REGARDING THE § 567(B)
BANKRUPTCY PREFERENCE DEMAND:**

Section 1: That the City Attorney be and is hereby authorized to conclude complete settlement of all claims which have been asserted or could have been asserted and from which negotiations have been completed with Vanguard Airlines.

Section 2: That the total settlement amount of Vanguard's preference demand is \$16, 000.00

Section 3: That the Chief Financial Officer is authorized and directed to pay Vanguard Airlines the amount of \$16,000.00, as negotiated between the City of Atlanta and Vanguard Airlines, from fund 2H01 529010 T31001.

Section 4: That the City Attorney is hereby directed to prepare the appropriate releases and other settlement documents as are necessary to protect the City's interest.

Section 5: That nothing in this resolution shall operate, nor shall be construed, to estop or prejudice the City from contesting the validity of or disputing liability for any claims asserted or which could have been asserted in connection with this Airline, or any of its successors firms or claims asserted by any other airline that has now or in the past had any claims against the City whether such claims are mature or are hereafter accruing.